



Rebuttal Statement

The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009

as amended by

The Town and Country Planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013

Appellant:	Angus Energy Weald Basin No. 3 Limited
Appellant's Address:	Building 3, Chiswick Park, 566 Chiswick High Road, London, W4 5YA
Site Location:	Lower Stumble Exploration Site, London Road, Balcombe, Haywards Heath, West Sussex
Date:	April 2022
Minerals Planning Authority (MPA):	West Sussex County Council (WSCC)
MPA Planning Application Reference:	WSCC/045/20
Description of Development	Temporary permission for exploration and appraisal comprising the removal of drilling fluids and subsequent engineering works with an extended well test for hydrocarbons along with site security fencing and site restoration

CONTENTS

CONTENTS.....	2
1 Introduction	3
2 Need & the Benefits for the Local Economy.....	4
3 Cost and Scope of Development Elsewhere	7
4 Adverse Environmental Impacts	9
5 Interested Party Representations.....	12
6 Conclusion.....	13

1 INTRODUCTION

- 1.1 This Rebuttal Statement is submitted on behalf of the Appellant, Angus Energy PLC.
- 1.2 It is in response to the Mineral Planning Authority (“MPA”), West Sussex Country Council, Statement of Case (“SoC”), application number WSCC/045/20, appeal reference APP/P3800/W/21/3282246.
- 1.3 Where required this statement will comment on interested party representations.

2 NEED & THE BENEFITS FOR THE LOCAL ECONOMY

- 2.1 The first matter of the Appellant's rebuttal is in response to the following conclusion from the MPA (paragraph 5.52, bullet point 1):

That whilst the Appeal Proposal would contribute towards meeting the national need for oil and thus energy security as the country transitions to a net zero emissions economy, the level of production level, would make such a negligible contribution towards the overall national need, which is in decline, secure, sufficient to meet current demand, so that in reality the need for the development would be significantly diminished. Furthermore, whilst there would be some benefit to the local economy, this would be temporary and there would be no certainty that the estimated contribution to the economy would be realised;

The Need for Hydrocarbons

- 2.2 The Appellant and MPA agree that the national need for oil is clear. The area of contention is the need for the development in terms of its quantity of supply.
- 2.3 Firstly, the MPA is advancing a judgement of the commercial prospect of the Proposed Development before the well has even been tested. The purpose of the proposed development is to undertake exploration and appraisal work including an extended well test for hydrocarbons. Paragraph 99 of the Minerals Planning Practice Guidance ("MPPG") defines the appraisal phase of hydrocarbon extraction as where *"the operator needs further information about the extent of the deposit or its production characteristics to establish whether it can be economically exploited."* This is the case at Balcombe.
- 2.4 Secondly, the MPA appears to be introducing a new definition and threshold of "negligible contribution", without reference to any evidence. The Appellant's opinion is that this has no basis and is not compliant with either national or local planning policy.
- 2.5 It is not disputed with the Council that the contribution of onshore oil to the overall UK supply and need is relatively small compared to that from offshore oil; that has remained the case for more than 50 years. However, this is not a valid reason to refuse the current application. Paragraph 211 of the NPPF states that great weight should be given to mineral extraction, including to the economy. There is nothing in national planning policy which seeks to restrict the extraction of energy minerals because of their relatively small contribution to the national need for oil.
- 2.6 There are 3 phases of onshore hydrocarbon extraction: exploration, testing (appraisal) and production. The Proposed Development seeks permission for both exploration and testing.
- 2.7 If all appraisal/ testing wellbores in the UK were to be assessed on this basis, all the UKs onshore and offshore will have a negligible contribution when compared to the overall national need. There is no single wellbore which could provide volumes of oil to meet the national need at this phase of development. Wytch Farm in Dorset is the largest onshore oil production facility in Europe, producing 83% of the total UK onshore production of oil in December 2021. The total UK onshore contribution to total UK oil production was 1.8%, demonstrating that the vast majority of the UK's oil is produced from the North Sea. <https://www.gov.uk/government/statistics/energy->

[trends-march-2022](#). That said, 1.8% would be a respectable production level even for a North Sea platform.

- 2.8 It is irrational to refuse a hydrocarbon appraisal well test, on an unjustifiable assumption of a negligible contribution, before the test has even occurred, let alone inconsistent with the aims of the phase as described in the MPPG. This is the fundamental point of the Planning Application, for the Appellant to understand the quantity and quality of the hydrocarbon over a sustained period to inform a future production application.
- 2.9 The Council's penultimate sentence in para 5.24 is muddled and unclear. The final sentence of that paragraph is simply not true. The need for the development from a national perspective is not "significantly diminished" because of the transition to a low carbon economy or because it will make a "negligible contribution" towards national need. The Council has failed to give sufficient weight to clear national guidance, notably at para 209 of the NPPF which states that "it is essential that there is a supply of minerals to provide the ... energy ... that the country needs." This statement is unequivocal and applies to all forms of onshore mineral extraction, including oil. The need for energy, including oil, will continue to remain for many years to come whilst the UK transitions towards more renewable energy.
- 2.10 Planning policy is clear - minerals extraction should be given great weight with the extraction of hydrocarbons seen as central to the UK energy policy in the immediate and long-term future. (Paragraph 10.4, page 48, Appellants Statement of Case).
- 2.11 The argument of a negligible contribution predetermines the outcome of the well test and is not founded in policy. It is clear that energy security and supply will be required for decades into the future.
- 2.12 The WSCC Planning Officer's committee report of 2 March 2021 draws a similar conclusion:

"The NPPF gives 'great weight' to the benefits of mineral extraction, including to the economy and highlights that minerals can only be worked where they are found. PPG: Minerals notes that energy supplies should come from a variety of sources and that oil and gas will continue to form part of the national energy supply. The latest national energy policy indicates that the oil and gas industry has a critical role in maintaining the country's energy security and economy. On balance, therefore, it is concluded that there is a need for the development to contribute to national energy security and supply" (Document 13, Section 9.11, page 36).

- 2.13 The recent energy security challenges and effects on the UK's hydrocarbon security arising from the conflict in Ukraine has reiterated this point as articulated in the Planning Officers report above.
- 2.14 Energy statistics quarter 4 2021, published in March 2022 by the North Sea Transition Authority, reaffirms the UK National Energy Policy and the Appellants position of energy security and the importance of indigenous supply of hydrocarbons:

Energy production was low, down 14 per cent compared to last year and the lowest level in over 50 years. Extensive maintenance in the North Sea, including the upgrade to the Forties Pipeline System, reduced oil and gas output by 17 per cent though output has increased since the summer lows. Nuclear output was also

disrupted by maintenance, dropping output 9 per cent to the lowest level since 1982. Increasing energy demand with lower production meant that net import dependency increased to 37.9 per cent, the highest share since 2015¹.

We can draw from this evidence, therefore, that the need to increase the UK's security of supply of energy including hydrocarbons, is likely to be remain in place for the foreseeable future.

Local Economy Contribution

- 2.15 The Appellant and MPA agree that the benefit to the local economy of the proposed development would be temporary.
- 2.16 The MPA's position is the temporary local economic benefit from sourced local goods and services cannot be guaranteed. The test of being guaranteed is not consistent with JMLP Policy M13 (c) (i) which states; *the need for the development ...and the impact of permitting it, or refusing it, upon the local economy*. The policy does not require the applicant to offer a "guarantee" to benefit the local economy.
- 2.17 In contrast, dismissing the appeal would be a guarantee of delivering no benefit to the local economy of any opportunity or gain from the Proposed Development.
- 2.18 The Appellant has provided a detailed socio-economic report which details local benefits from the Proposed Development. The Appellant has estimated that £815,000 could be invested into the local economy with civil engineering contracts, accommodation, consultancy services, transport and logistics, security and welfare including waste management and fuel supply if the development were approved, as well as incurring other indirect economic benefits. Whilst there can be no guarantee that these benefits will arise, this is the case with any estimate of socio economic benefits.
- 2.19 The Council has not sought to come up with a different estimate so the Council presumably accepts that this is a reasonable estimate of benefits to the local economy. Consequently, the Appellant considers great weight should be given to these benefits.

¹ <https://www.gov.uk/government/statistics/energy-trends-march-2022>

3 COST AND SCOPE OF DEVELOPMENT ELSEWHERE

- 3.1 The second matter of the Appellant's rebuttal is in response to the following conclusion from the MPA (paragraph 5.52 of the MPA's SoC):

That the Appellant has failed to provide the required information and present an assessment to enable the Council to come to an informed view on the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for the mineral in some other way;

Scope & Costs

- 3.2 The MPA and the Appellant agree with the site planning history. The Balcombe wellsite has been subject to hydrocarbon extraction since 1986 when Conoco drilled the Balcombe 1 exploration well. This is an important consideration in understanding the scope for developing elsewhere outside the designated area. The site is not new and has a long and well-established planning history.

- 3.3 In determining previous planning applications, WSCC has consistently viewed the Balcombe site as the best environmental option to extract hydrocarbons. The 2 March 2021 Planning Officer's report makes the following statement:

The site is, therefore, considered to represent an acceptable environmental option, when compared against other potentially deliverable, alternative sites from which the target reservoir can be accessed, in accordance with Policy M7a (a)(ii). For the avoidance of doubt, this conclusion solely relates to comparing the use of the site with the creation of a new site in the PEDL area, which is considered likely to result in greater environmental harm (Paragraph 9.35, page 40).

- 3.4 This is supported by the Avington appeal decision notice, dated 10th December 2021 (Appeal Ref. APP/Y9507/W/20/3265729). The appeal was made by IGas Energy Plc against the decision of South Downs National Park Authority, for "use of wellsite and surface and sub-surface infrastructure for a period of 5 years to allow for appraisal of oil and gas at Avington Wellsite", which lies within the National Park. The appeal was allowed on 10th December 2021; the appeal decision notice states at paragraph 16 "The proposal would enable a greater understanding of the oil resources within PEDL 070, which is contained wholly within the National Park. The Framework highlights that minerals can only be worked where they are found, and I accept the appellant's evidence that it would be impractical to explore this resource from outside the National Park".

The Inspector found that the proposal would not compromise the reasons for designation of the National Park. He found that there is a demonstrable need for oil exploration development. He found that the proposal constitutes exceptional circumstances for oil exploration development in the National Park.

This recent appeal decision is relevant to this appeal because:

1. it sought permission for oil and gas development following an initial exploration activity on an existing site;
2. the site was located in a National Park which has the same protected status as an AONB;

3. the site was able to accommodate additional landscape planting and support biodiversity gain; and
4. the Inspector placed considerable weight on the benefits of appraisal and the need for security of supply as well as support to the economy.

3.5 The Appellant's Planning Statement is clear in section 8.3:

Relocating the site which will target the same formation (proximity to the target of an hydrocarbon find) would remain in the AONB. The success rate of exploration is limited and as Balcombe 2z has already provided empirical data that the well has an increased likelihood of flowing hydrocarbons, the selection of this site greatly outweighs the potential of other sites throughout the UK.

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- 3.6 There is no scope to develop this target formation outside of the Area of Outstanding Natural Beauty.
- 3.7 The Appellant has already invested £5.2million in the Balcombe wellsite, referenced at paragraph 8.26 of the Appellants SoC. This is a reliable reference of the typical costs involved in drilling and exploring hydrocarbons for a single onshore well.

Imports

3.8 The Appellant disputes the matter raised by the MPA at paragraph 5.19 of its SoC.

"As set out in the Appellants Statement of Case at paragraphs 8.11- 8.14, national demand for petroleum products is declining, and the need for imports has reduced (with the UK in 2020 becoming a net exporter of primary oils for the first time since 2004)."

- 3.9 The MPA's claim that the UK can rely on oil imports as an alternative source to developing its own indigenous source of supply is at odds with national energy policy and should be given little to no weight when assessing alternative sources. Domestic alternative sources are declining and have been since 1990, making the UK a net importer since 2004.
- 3.10 Furthermore, energy statistics quarter 4 2021, published March 2022, undermines the MPA's evidence. Taking a single reference during a year which was influenced by a global pandemic is misleading because it gives undue emphasis to anomalous data.
- 3.11 A policy of relying on imports is misguided and ill-informed, acutely magnified by recent world events which is challenging the very essence of what energy security and supply means to the United Kingdom and Europe.
- 3.12 It is clearly inconsistent to UK Energy national policy for the MPA to make the case that hydrocarbons should be imported into the UK at the expense of UK indigenous development and supply.

4 ADVERSE ENVIRONMENTAL IMPACTS

- 4.1 The third matter of the Appellant's rebuttal is in response to the conclusion from paragraph 5.52 of the MPA's SoC:

That the Appeal Proposal would have detrimental effects on the environment, the landscape and on opportunities for recreation within the AONB and would be an industrial-style development at odds with its character and scenic beauty. Whilst planning conditions could help mitigate adverse impacts of the Appeal Proposal, there will still be some residual adverse impacts upon the countryside and the AONB designation, which, as set in paragraph 5.9 above should be afforded the highest level of protection in accordance with the NPPF, paragraphs 176-177.

- 4.2 To set the site in the correct context, the MPA SoC states the site is surrounded by Ancient Woodland. The site is in fact situated on private land, next to a railway line, (the London to Brighton busy main line), adjacent to London Road (B2036) a corridor route from Haywards Heath to the M23, and borders an area of land used for commercial forestry along the western site boundary. There is semi natural Ancient Woodland, being Lower Beanham Wood, which is situated to the eastern boundary immediately beyond an access track which runs from south-west to north east accessing a saw-mill. This semi natural Ancient Woodland also extends beyond the commercial forestry boundary to the northwest of the site.

- 4.3 In paragraph 5.36 the MPA's SoC draws upon the 2021 Planning Officer's Committee Report in disputing the Appellant's opinion that the MPA has not referred to a specific environmental impact. As a matter of consistency, the MPA should also rely on the Planning Officer Report conclusion which states in paragraphs 10.8 and 10.9:

Overall, although the proposed development would have some adverse impacts, it is considered that they could be satisfactorily mitigated through the imposition of appropriate planning conditions.

On balance, in light of the above assessment and taking account of the changes to the proposed development (in particular the shorter duration of the operations proposed compared with the previous application), the additional information submitted by the applicant, and changes to national energy policy, the revised application is considered to accord with the policies in the development plan (in particular, Policies M7 and M13 of the JMLP) and, therefore, it is acceptable.

- 4.4 It is suggested by the MPA's SoC at paragraph 5.42 that the impacts of lighting have not been considered upon the landscape. The Appellant's Landscape Assessment, Document 5g, fully accounts for the impacts of visual effects. The conclusion remains consistent with paragraph 4.6 of the RSK Landscape Assessment:

For the majority of the site works, only one local receptor on London Road has been assessed as minor adverse with all other effects being negligible due to screening by intervening woodland and hedgerow vegetation.

- 4.5 The operations are temporary and will not require long-term lighting. All operational areas of the site will be lit with task-based lighting e.g. SMC TL90, lighting towers, which will be inward facing to avoid disturbance to sensitive receptors including neighbouring properties, and bats that use the surrounding vegetation to commute and forage. In any event, the Appellant is content to accept a condition requiring a

lighting strategy to be submitted and approved prior to the commencement of development.

4.6 WSCC ecology officer did not raise an objection to the proposal, subject to conditions seeking a lighting strategy and bat monitoring. This is because the Appellant has offered up lighting mitigation measures similar to the previous development undertaken at the site.

4.7 The MPA also adds into their SoC HGV movements give rise to some disturbance and transitory noise, the MPA does not quantify or provide any details what is meant by this statement. Nevertheless, the MPA has proposed a condition controlling HGV movements which would control noise impacts from HGVs.

4.8 Finally, the MPA has raised a point that the nearest residential receptor at Kemps Farm is predicted to experience noise levels above the recommended maximum during night-time periods for several extended stages of the proposed operations.

4.9 The MPA's SoC concludes at paragraph 5.47 (*with emphasis added by the Appellant*):

*As a result, actual noise impacts **may be** significantly greater than has been presented.*

4.10 The Appellant undertook a baseline unattended noise monitoring operation at Kemps Farm. The results of the noise assessment can be found in table 6.2 of the RSK Noise Management Plan (Document 05h). The conclusion from the assessment is:

At R1 (Kemp Farm) the predicted noise level is + 1dB above to the noise criteria during the night-time but is unlikely to have a significant effect. However, it should be noted that the noise predictions are considered to be worst case (based on worst case assumptions) and in practice noise levels are expected to be lower.

4.11 The Appellant's noise evidence is based on baseline monitoring and modelling. In contrast MPA's statement at paragraph 5.47 of their SoC is not based upon any data or scientific assessment. The Appellant has correctly assessed the worst case scenario. The MPA's claim that it **may be** significantly greater should therefore be dismissed. In any event, the Appellant has accepted a condition that a Noise Mitigation Plan should be submitted and approved prior to work commencing.

4.12 Referring back to the 2021 Planning Officer's Committee Report, paragraph 9.55-9.57 states:

A condition could be included to secure a Noise Mitigation Plan, as used during 2018 operations, which would require the applicant to provide details of 'instantaneous mitigation measures' such as throttling back the gas flow, and in extreme cases, ceasing operations until appropriate action is taken (unless it is unsafe to do so). Noise monitoring could also be undertaken continuously during operations by the applicant, with results submitted to the County Council on a weekly basis, but also on request. In the event that noise emissions do cause a problem, a condition could be used requiring submission of a Noise Management Plan to identify the mitigation measures to be put in place and the timescale for doing so.

Mid Sussex District Council have raised no objection subject to the submitted Noise Management Plan being adhered to and the suggested conditions in Appendix B.

Under these circumstances and given the controls that the proposed conditions could give, it is not considered that the proposal would result in adverse noise impacts on residential amenity.

The Appellant therefore asks that the Inspector gives no weight to the MPA's evidence with respect to adverse impacts.

5 INTERESTED PARTY REPRESENTATIONS

- 5.1 Interested parties in the main have made representations which repeat similar points to that of the MPA.
- 5.2 However, reference was made to enhancement under paragraph 176 to conserve and enhance the landscape within Areas of Outstanding Natural Beauty.
- 5.3 To reiterate, phase 4, the restoration phase, will enhance the local landscape and make a positive biodiversity contribution to the area. As detailed in the Appellant's Planning Statement, paragraph 8.9.14:

Phase 4 will include biodiversity enhancements that have been considered in the assessment of both landscape and visual effects and will complement the AONB Management Plan and NCA 122 Statements of Environmental Opportunity character. It is proposed that the site is returned up to 50% native deciduous woodland with the remaining area as working area for the forestry business on associated land. An increased woodland cover that is informed by the historical nature of the area will increase the viability of woodland habitats by enhancing connectivity between woodlands and encourage species' resilience to climate change.

6 CONCLUSION

- 6.1 The Appellant has provided a detailed rebuttal of the three matters raised in the MPA's SoC:
- a) Need and the Benefits for the Local Economy
 - b) Costs and Scope of Development Elsewhere
 - c) Adverse Environmental Impacts
- 6.2 The 2 March 2021 Planning Officer's Report assessment and conclusion recommended approval. The MPA's SoC does not provide any new planning reasons which contradict this recommendation or provide a valid reason for refusal.
- 6.3 The Appellant's Proposed Development fully accords with the MPA's JMW Local Plan and is consistent with the national Government's energy supply and energy security objectives.
- 6.4 Having regard to this rebuttal and the Appellant's SoC, the Appellant respectfully request that the appeal is allowed, and that planning permission is granted.